

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN DALE MAHLUM**, on January 25, 2001 at 3:00 P.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Dale Mahlum, Chairman (R)  
Sen. John C. Bohlinger, Vice Chairman (R)  
Sen. Chris Christiaens (D)  
Sen. John Cobb (R)  
Sen. Bill Glaser (R)  
Sen. Duane Grimes (R)  
Sen. Don Hargrove (R)  
Sen. Ken Miller (R)  
Sen. Emily Stonington (D)  
Sen. Ken Toole (D)

**Members Excused:** Sen. Jim Elliott (D)

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Mary Gay Wells, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 71, 1/16/2001  
SB 72, 1/16/2001  
SB 73, 1/16/2001  
SB 174, 1/16/2001

Executive Action: SB 14 Tabled; SB 66 Tabled;  
SB 137 Tabled; SB 154 Tabled  
SB 50 DPAA; SB 161 DPAA;  
SB 168 DP

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**VICE CHAIRMAN JOHN BOHLINGER** took up the gavel. A request was made by **SEN. GLASER** to present all four bills together as they are intertwined. The difference between the four bills is that one is all encompassing and the other three are options. The request was granted.

**HEARING ON SB 71, SB 72, SB 73, SB 174**

**Sponsor:** SEN. WM. E. "BILL" GLASER, SD 8, HUNTLEY

**Proponents:** Jim Standaert, Legislative Fiscal Division  
Dave Galt, Director, Dept. of Transportation

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. WM. E. "BILL" GLASER, SD 8, HUNTLEY.** One bill is the mother of all bills and the other three are abbreviated options of the first bill. The Interim Committee on Revenue and Taxation realized that HB 540 from the 1999 Legislative Session would probably be passed by the voters at election time. **Jim Standaert** was given the duty of analyzing the complexity of the system that would exist if HB 540 were approved by the voters. It was approved. To the Interim Committee, **Mr. Standaert** brought his able analysis. The conclusion was that something needed to be done about the complexity of the distribution of the monies that dealt not with automobiles or pickup trucks but all other light vehicles such as watercraft, snowmobiles and off-highway vehicles. Senate Bill 73 is a result of the study that handles all the issues. Senate Bills 71, 72 and 174 are sub-menus of that issue. He handed out two charts **EXHIBIT(10s20a01)** and **EXHIBIT(10s20a02)**. Senate Bill 73 fixes the flaws and simplifies the distribution system. Senate Bill 71 deals with the monies that are distributed to the district courts. Senate Bill 72 shorts the district courts. Senate Bill 174 fixes just the flaws in the system. The amount of revenues coming in from this process is determined by Senate Bill 260 in the last Legislature and the voters initiative for the flat fee. The Highway account is being shorted a bit. The solution to that problem does not lie in this bill; it lies in the Finance Committee.

**Proponents' Testimony:**

**Jim Standaert, Legislative Fiscal Division.** This began when he first wrote a report on HB 540 in 2000. He found that either the county treasurers or whoever deals with the computer system in

terms of the distribution of money had not changed their computer system in the last year because the distribution changed three times. On January 1, 2000 it changed as a result of SB 260. It changed on July 1, 2000 as a result of HB 540. It changed again on January 1, 2001 when HB 540 changed again.

The simplification of the system became very apparent. In Exhibit 1, "SB 73 - Revise Distribution of Vehicle Fees," the left hand column lists all the types of vehicles that are affected by this bill. Under the "Current law distribution" column, there is a hodge-podge of different kinds of distributions. **SEN. CHRIS CHRISTIAENS** asked for an explanation on the "Note: Local Mills excludes 95 mills for state general fund, 6 mills for university system, 9 mills for welfare." **Mr. Standaert** replied that the average mills statewide in 2000 was 413 mills. Subtract 95, 6, and 9 mills from 413 (9 applies only in thirteen counties). The whole nine could not be subtracted across the board. Those counties are state assumed. The term "spread across the mills" means: take a jurisdiction that has 400 mills total. The revenue from all the cars in that district are distributed 95 divided by 400. That ratio goes to the state. Six divided by 400 is the ratio that is distributed to the university system. That is done for the county, the city, miscellaneous districts and the schools.

**SEN. DON HARGROVE** asked about the workload for the counties, who is coming up short, and how is it being addressed in this bill.

**Mr. Standaert** wondered if the Senator wanted to know the answers by jurisdiction. Statewide, the averages are: from SB 73, the amount that goes to the highway department is just about the same as what they would have received under the current system. The amount going to the district courts is again just about the same. The local governments are going to come out just about the same. There is not much change in the revenue. The workload for the counties was acceptable to those counties he had presented the explanation to.

Under the sixth column is the proposed law distribution. The question was what percentage of the total revenue from all these vehicles is equivalent to the newly manufactured vehicle revenue. A percentage was picked and that percent in this case is 12.1%. The bill states that of the total revenue, give 12.1% to the highway department. The only exceptions are for watercraft and off-highway vehicles. They retained those up-front distributions of 20% for motorboats and \$1.00 for noxious weeds. Everything else follows the pattern. The 12.1% is for the highway department, 9% for the district court (this could be lowered by 1% because more vehicles are going to contribute to the district

court). The remainder is all to local mills. The state's 95 mills, the university's 6 mills and the welfare's 9 mills would not receive any distribution at all. That is basically SB 73. This is the bill that simplifies everything the most. The other bills don't really do much for simplification of anything. He was not sure if they really did anything.

**Dave Galt, Director, Department of Transportation.** He supports the simplicity of the bill. House Bill 540 and all the changes that were done were a mess before; so as a department, they would do anything that was needed to be done.

**Opponents' Testimony: None**

**Questions from Committee Members and Responses:**

**SEN. DUANE GRIMES** wondered if beside the simplicity issue, what are the policy decisions for the Legislature. **SEN. GLASER** replied that the end result of SB 260 was focused on autos and pick-up trucks. In order to fund that bill, the mill levy distribution was distributed across the mills--so much for the weed districts, the counties, the cities, the schools, etc. Included in that mix was the mills for the school system and university system and assumed counties. Under SB 260, the state was taken out of the mix. Even though the amount of revenue was reduced, everyone still received about the same amount of money. But all the other light vehicles were left dangling. Those revenues were collected and distributed differently. The Interim Committee felt that the state should come out of the mix on all the light vehicles and the county can keep it in one fund and distribute it much easier. Therefore the 95 mills for the state general fund, the 6 mills for university system and the 9 mills for welfare are taken out of the local mills. The local governments are better off because they receive a bit more revenue there.

**SEN. GRIMES** asked if there was a shift of funds. **SEN. GLASER** explained there was a shift. Money from the state would be shifted to the local governments. The shift money could be utilized to patch Dept. of Transportation programs.

**SEN. GRIMES** furthered inquired where the county treasurers and MACO weigh in on these bills. **SEN. GLASER** claimed they were there in the interim and listened carefully to what **Mr. Standaert** had to say. They wanted the process simplified and they actually gain in the process after each county does some computer changes at the end of the year.

**SEN. GRIMES** wondered if **Mr. Standaert** had anything to add.

**Mr. Standaert** replied that the state might take a little hit because the state is not receiving anything from several of those minor, smaller category of vehicles that are at the bottom of the charts.

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**SEN. DON HARGROVE** wanted to know why there are four bills that seem to be very similar. **SEN. GLASER** responded that SB 174 puts patches in that were not absolutely essential. Senate Bill 71 deals with the courts and how that money is distributed to them. Senate Bill 72 shows how the highway department is handled.

**SEN. CHRIS CHRISTIAENS** asked for explanations of the fiscal notes. Under SB 72, local governments come out better than they do under SB 71. In each of these scenarios, were the same assumptions used to get to these different amounts. **SEN. GLASER** said he assumed all the assumptions were the same. Some of the numbers that are put into the bill are set together on the basis of **Mr. Standaert's** analysis. The proper way to analyze the fiscal note is to make sure the desired results are arrived at.

**SEN. CHRISTIAENS** asked again for an explanation. **Mr. Standaert** said that if they wanted to make things look better for local governments they could change the 12.1% in SB 73 to something else. There is a fixed amount of dollars and it depends on how the Legislature wants to set the amounts. That is the policy question here.

**SEN. CHRISTIAENS** indicated that he had heard in the bills presentation that the Legislature could lower the courts' distribution from the 9% because more of the revenues from different odd vehicles have been added and they then end up with an increase. He further questioned why transit districts have not been included. That group is absent in all the charts. In Missoula, in the past, **SEN. CHRISTIAENS** had gotten about \$144,000 per year. Will that show up somewhere else? **Mr. Standaert** said that he would look into it. If the transit district is in a jurisdiction that levies mills, they should receive a portion of vehicle fees. It could be reduced because there was a cut back of 30% on light vehicles and the monies were redistributed to the local governments.

**SEN. CHRISTIAENS** inquired about the impact on the highway special revenue bond and what happens under SB 73. **SEN. GLASER** answered that the fiscal note makes an assumption that there are increases and decreases from last year's revenue before the impact of the initiative. **Mr. Standaert** asked the Committee to look on page 3 of the fiscal note (SB 73). Addressing No. 4, where it uses 1.5%

annual growth rate, he shows that this is just applied to the number of the vehicles. It has nothing to do with the taxes paid on those vehicles.

**SEN. GRIMES** stated that he appreciated **Mr. Standaert's** comments on the bills. He recognized that the main purpose is to consolidate the taxes that have to be administered. But in hearing that these bills have differing effects on the state, the county and district court, he suggested if making SB 73 revenue neutral, what percentages would they be talking about.

**Mr. Standaert** said he didn't know what the percentages would be, but it wouldn't be hard to figure out. If the 9% were dropped a little bit to 8% plus, and the 12.1% to 11.8% or so, that wouldn't drive the difference in money to the local governments and would make up for their losses. The numbers could be perfectly balanced statewide.

**Mr. Standaert** was asked to make the calculations for the Committee so that they would know what "base" is and make decisions from there.

**SEN. GRIMES** asked, as a local government committee, if they were the right committee to be making the decision on these bills.

**SEN. GLASER** felt that when HB 540 passed, the revenue did decrease and as a result this bill is trying to fix some of the discrepancies and simplify it. When the percentages were changed in the mix, they were changed in the whole distribution system. Therefore, it doesn't take much of a change in the percentages to make a difference.

**SEN. GRIMES** wanted to know if these numbers presented here are reflected in the current budget. **SEN. GLASER** felt the numbers that are on the fiscal note should be correct and in the current budget. With a slight change in numbers, it should become revenue neutral.

**SEN. GRIMES** followed on with a question for **Dave Galt**. **Mr. Galt** answered that the involvement that the Department of Transportation had in this whole arena was the new car sales tax. The Dept. used to get about \$10-\$11 million a year from new car sales. When HB 540 passed, there was a lot of shuffling of money. The \$10 million went to \$7.7 million. The Dept. took quite a hit. When he looked at this package of bills, the best numbers were close. If the Legislature can simplify everything with the passage of SB 73, that would be good.

**VICE CHAIRMAN BOHLINGER** stated that there had been no representatives from the counties, cities and towns. He asked for the sense of support or lack of support of local governments

from the sponsor. **SEN. GLASER** recounted that in the beginning the system, as it changed, became even more complex for local governments. They presented major opposition, not because of the change in money but in the change in their workload. The treasurers at the Interim Committee were for anything that could be done to simplify the process. Everyone involved in the process, like Mr. Galt, wanted to be held whole as much as possible. The Interim Committee had its preference and that was the court system. He believed that since the counties were not in attendance for the hearing, they had some confidence in what the Interim Committee did. Senate Bill 73 will make life much easier for them even with the tweaks made by **Mr. Standaert** and requested by **SEN. GRIMES**. It will dedicate a source of revenue for them.

**Closing by Sponsor:**

**SEN. GLASER** closed.

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**SEN. CHRIS CHRISTIAENS holds the proxy for SEN. JIM ELLIOTT and for SEN. KEN TOOLE.**

**EXECUTIVE ACTION ON SB 14**

**Motion/Vote:** **SEN. GRIMES** moved that **SB 14 BE TABLED**. Motion carried unanimously.

**EXECUTIVE ACTION ON SB 66**

**CHAIRMAN MAHLUM** presented SB 66 for discussion.

**Discussion:**

**CHAIRMAN MAHLUM** stated that **Fred Van Valkenberg** had spoken to him and said the County Attorneys Assoc. understood the fiscal constraints this year. They did request something be done to put policy in place.

**SEN. JOHN BOHLINGER, sponsor of the bill**, did have an opportunity to visit with **Jani McCall** who is the lobbyist for the County Attorneys. She did say that with the tight budget, they would be happy to see something put in place to allow for a pay tie to the

district court judges at a future date. A phase-in at something less than 95% and working up to 95% over a period of years could also be put into place.

**SEN. KEN MILLER** has been opposed to this bill. In researching how other states handle this situation (since it is tied to North Dakota, South Dakota, Idaho, and Wyoming), he found that Idaho uses the National Center for State Courts. They do a survey and determine what the area salaries are and base their figures on that. A couple of the other states set theirs the way we used to do--just using an arbitrary figure. Wyoming also sets theirs based on an average of the rocky mountain region. If one would sit down at the computer and write up a formula that does what has been proposed, an error sign comes up. The reason for the error sign is because one is averaging on an average. This will explode into a big mistake for the Legislature at some point. He had argued against this way of setting salaries with the district court judges and it still passed. Those salaries have already increased and are going to increase ever more quickly. Averaging on the average does not have a cut off point and the growth becomes even greater as time goes on. The Legislature should not be setting that kind of policy any more.

**SEN. DUANE GRIMES** agreed that **SEN. MILLER** has some very valid points. In addition, he has not become convinced that the philosophy behind the source of the funds is entirely accurate. The state passes the laws that all the police departments, the fire departments and others have to implement. The Legislature is representing counties and hopefully weighing their opinions as laws are passed down. It is not good precedent for the Legislature to admit that the counties have paid a disproportionate amount of money to implement state laws. It is their laws that are being passed on their behalf. He does not want to encumber future legislatures with something in statute that would happen later. After all have had a chance to speak, he would make a motion to table the bill.

**SEN. DON HARGROVE** felt that what has been said by both **SENATORS MILLER AND GRIMES** is very valid. Setting future policy is not the way to do it. When the Legislature sets a number in statute for money, that is not a practical way to do it. A formula, based on the cost of living, is the better way. Montana can find a formula for growth on its own volition.

**SEN. CHRIS CHRISTIAENS** shared, that in his subcommittee, which is the Institution Subcommittee, they hear the Department of Justice's budget. In statute, it is written that the state pays 50% of the county attorneys' salaries and the state also pays on a proportionate basis for those attorneys who are part-time. His



committee was faced with the fact that, as those salaries increased, (and that gets complicated also as there are experience factors, number of years in office, etc.) there were three counties that are changing from part-time to full-time county attorneys. The subcommittee had to approve the budget to cover this. He did want to hear what was coming from Legislative Reform. He proposed doing a committee bill and would ask for a study by Legislative Council and have them bring back some direction for the next Legislature.

**SEN. EMILY STONINGTON** felt that tying their salaries more closely to district judges should be looked at closely. She agreed with the thoughts of **SEN. MILLER**. She did not want to table the bill and disregard it completely. There was a disparity between the county attorneys and the judges salaries. There needs to be some equity between them.

**SEN. BOHLINGER** said he feels the bill is good, equitable and is necessary. The state has given more work to the county attorneys through laws that have been passed. It is necessary to have good county attorneys. Salaries are not comparative to private sector pay. Even if it has to be phased in, it should be taken care of as soon as possible.

**CHAIRMAN MAHLUM** said that he wanted **SEN. BOHLINGER** to have time to work on the bill. The funding is a real problem.

**SEN. CHRISTIAENS** made the statement that counties have the ability right now to raise the county attorney's salary. The state would then have to pay 50% of that figure. It would seem that local government is limiting the pay and not the Legislature.

**SEN. GRIMES** responded to **SEN. STONINGTON**. He said things cannot be done in a vacuum and maybe the judges salaries were done in a vacuum. He felt the Committee was acting on anecdotal information. To say that all are underpaid or that all need to be tied to the judges' salaries or that the relationship is not that good if there is not equity between the salaries is not necessarily true. The county attorneys made a good pitch for that, but that is their role. If the Committee would like to do a committee bill, he would support that. And after looking at the facts, the state's portion could be increased proportionately to what the salary survey showed. Counties, if they see a dire problem, should raise those salaries themselves.

**Motion/Vote:** **SEN. GRIMES** moved that **SB 66 BE TABLED**. Motion carried 9-2 with Bohlinger and Mahlum voting no. (A roll call vote was taken)

**EXECUTIVE ACTION ON SB 137**

**SEN. MAHLUM** brought SB 137 to the table for executive action.

**Discussion:**

**SEN. EMILY STONINGTON** began the discussion by recapping the highlights of the bill. It created a state and local government relations committee. It is essentially a piece of the "big bill" which is being heard in the Taxation Committee. In the last session, interim committees were revised and were put together such as taxation and revenue. All education and local government were put together. Now there are smaller committees being broken out and that was not the original intent. The intent was to cut down on the number of committees and the number of staff that is necessary. The fiscal note is large because it is proposing non-legislative members and actually requires staff of legislative services to complete this function and there is no staff time remaining. This would require hiring more staff. There is no appropriation attached to the bill and would have to be added in the House. She would like to table the bill, but would like comments first.

**SEN. CHRIS CHRISTIAENS** supports the above comments. As a member of the Legislative Council for the past four years, the council organizes and works on the interim committees. Each committee has a budget of approximately \$26,000 for the interim. Looking at the fiscal note of \$100,000 with all the non-legislative members and without a separate appropriations, it would take out about three other interim studies.

**CHAIRMAN MAHLUM** spoke and informed the committee that the sponsor, **SEN. LINDA NELSON**, had informed him that it would be fine with her if the bill was tabled.

**Motion/Vote:** **SEN. STONINGTON** moved that **SB 137 BE TABLED. Motion carried unanimously.**

**EXECUTIVE ACTION ON SB 50**

**Motion:** **SEN. CHRISTIAENS** moved that **SB 50 DO PASS.**

**Motion:** **SEN. COBB** moved that **SB 50 BE AMENDED EXHIBIT(1os20a03).**

**Discussion:**

Leanne Kurtz, Legislative Staff had written an explanation concerning SEN. COBB'S amendment and then an explanation of SEN. COBB AND SEN. GRIMES' amendment working together EXHIBIT(1os20a04).

SEN. COBB read his amendment.

**Vote:** Motion that AMENDMENT SB005002.alk BE ADOPTED carried unanimously.

**Motion:** SEN. CHRISTIAENS moved that SB 50 BE AMENDED EXHIBIT(1os20a05).

**Discussion:**

Leanne Kurtz read the minor changes of the amendment.

**Vote:** Motion that AMENDMENT SB005001.alk BE ADOPTED carried unanimously.

**Motion/Vote:** SEN. COBB moved that SB 50 DO PASS AS AMENDED. Motion carried unanimously.

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**EXECUTIVE ACTION ON SB 161**

**Motion:** SEN. HARGROVE moved that SB 161 DO PASS.

**Discussion:**

SEN. HARGROVE informed the committee that the bill clears up much confusion. The statute had not been touched since 1991.

**Motion:** SEN. STONINGTON moved that SB 161 BE AMENDED EXHIBIT(1os20a06).

**Discussion:**

SEN. HARGROVE explained the amendment. The words "tonnage or" were added in a number of places.

**Vote:** Motion that **AMENDMENT SB016101.alk BE ADOPTED carried unanimously.**

**Motion:** SEN. HARGROVE moved that **SB 161 BE AMENDED EXHIBIT (los20a07) .**

**Discussion:**

SEN. COBB explained his amendment. It clarifies where the fees come from. It applies only to facilities.

**Vote:** Motion that **AMENDMENT SB016102.alk BE ADOPTED carried unanimously.**

**Motion:** SEN. HARGROVE moved that **SB 161 DO PASS AS AMENDED.**

**Discussion:**

SEN. BOHLINGER was concerned about line 10 in the title. The prohibition of bringing in out of state waste is being removed. He plans to speak to the people in the environmental community to get their opinions. If they are troubled, he will bring forward an amendment on the Senate floor to strike the removal.

SEN. HARGROVE explained that the only reason that portion is included is the Supreme Court declared that it was unconstitutional. It would cost more for states to ship waste to Montana than would be feasible. Montana wouldn't accept it anyway.

**Jon Dilliard, Director, Department of Environmental Quality.** If the committee would look in the statutes, that moratorium on the importation of waste expired on October 1, 1993. It has not been in effect since that time. To alleviate any fears, the Dept. has not seen any effort to ship major quantities of out-of-state waste into Montana.

**Vote:** Motion **carried unanimously.**

**EXECUTIVE ACTION ON SB 154**

**CHAIRMAN MAHLUM** brought the bill forward for discussion.

**Discussion:**

**SEN. BILL GLASER** recalled for the committee that an amendment had been adopted. The vote was 5 to 3. The committee was going to wait for the other Senators to cast their vote before continuing to discuss the bill.

**SEN. HARGROVE** spoke to the amendment. It is terribly unfriendly to rural communities. This would be very onerous to the "donut area." And to the rural communities surrounding the cities, it would also be very onerous. The cities issues permits which can be and are costly to those who live in the "donut area" and this bill would be just another divisive instrument. He strongly opposes the amendment.

**SEN. KEN TOOLE** asked if the "donut area" pays city taxes.

**SEN. HARGROVE** said no and they do not get to vote for city officials. The just get to pay fees which are very high and the city has jurisdiction over them also.

**SEN. GLASER** said that it was not his intention to create hard feelings for the people who live in the "donut area" but merely to come up with a definition of an area around the city where businesses would be situated and then could be included in the bill.

**SEN. GLASER** moved to withdrew his amendment of several days ago. The voting on this amendment had not been completed.

**Motion/Vote:** **SEN. CHRISTIAENS** moved that **SB 154 BE TABLED**. Motion carried unanimously.

#### **EXECUTIVE ACTION ON SB 168**

**Motion:** **SEN. BOHLINGER** moved that **SB 168 DO PASS**.

#### **Discussion:**

**SEN. DUANE GRIMES** had received a note from Mr. Frank Lohr. He had been concerned that if the Dept. is losing money, a fee could be charged to the tow truck drivers to make up for the difference. The amendment might not be within the title of the bill.

**CHAIRMAN MAHLUM** responded that it was not within the confines of the title. There was no interest from the committee and the idea was dropped.

**Vote:** Motion carried 9-2 with Cobb and Miller voting no.

**ADJOURNMENT**

Adjournment: 5:00 P.M.

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SEN. DALE MAHLUM, Chairman

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MARY GAY WELLS, Secretary

DM/MW

**EXHIBIT (los20aad)**